

## Appendix C – Agency Correspondence

- Letters between MnDOT CRU and SHPO
- Letters between MnDOT OES and USFWS
- NEPA/Section 404 Merger Process Correspondence
- City of Virginia Municipal Consent Resolution
- Comments Submitted on the State Final EIS (June 2015)



Minnesota Department of Transportation

Office of Environmental Stewardship  
Mail Stop 620  
395 John Ireland Boulevard  
St. Paul, MN 55155

Office Tel: (651) 366-3614  
Fax: (651) 366-3603

December 5, 2014

Sarah Beimers  
State Historic Preservation Office  
Minnesota Historical Society  
345 Kellogg Blvd. W.  
St. Paul, MN 55102

Regarding: S.P. 6918-80 (TH 53, St. Louis County)  
Realignment in the Virginia Area  
SHPO: 2011-3404

Dear Ms. Beimers:

Thank you for your letter of 11/7/2014 concerning the Phase I archaeological survey of the revised E-2 Alternative alignment. In response to your request for a clarification of the remaining alternatives and a summary of the status of the Section 106 consultation, we are enclosing a time line of correspondence between MnDOT and the SHPO and a map of the remaining alternative alignments. The time line will demonstrate that the current Section 106 status of the project is that there are no historic properties adversely affected.

Feel free to contact me if you have any questions concerning this review at 651-366-3614.

Sincerely,

A handwritten signature in black ink, appearing to read 'Craig Johnson'.

Craig Johnson  
Archaeologist  
Cultural Resources Unit (CRU)

cc: MnDOT CRU Project File  
Pat Huston, MnDOT D. 1  
Cindy Lillegaard, MnDOT D. 1  
Debra Moynihan, MnDOT C.O.  
Nancy Frick, MnDOT C.O.  
Jennie Ross, MnDOT C.O.

## **SHPO Consultation Time Line**

**SP 6918-80 (SHPO 2011-3404)**

### **August 23, 2011**

Letter and attachments (Purpose and Need, Public Involvement) sent to the SHPO outlining our approach to consultation and plans to hire archaeologists and historians.

### **September 21, 2011**

Response from the SHPO recommending changes to the purpose and need, and various approaches and parties in our public outreach. Also discusses future SHPO involvement in establishing the architectural Area of Potential Effect (APE).

### **September 28, 2011**

Letter and attachments (architectural APE from Landscape Research) sent to the SHPO. Includes estimates of the number of identified and Phase II properties.

### **October 27, 2011 (sent via e-mail, incorrectly dated as 9/21/2011)**

Response from the SHPO on the architectural APE is in general concurrence. Questions inclusion of Range Paper Plant, Fifth Avenue Boulevard, and Second Avenue properties in the APE and requests justification.

### **November 9, 2011**

Letter and attachments sent to SHPO justifying that the mining landscape, Range Paper, Fifth Avenue Boulevard, and Second Avenue properties are within the architectural APE. Alternative alignments and discussion included from draft Scoping Decision document. The purpose and need and public involvement plans were also addressed.

### **December 6, 2011**

Response from the SHPO concurring with the revised APE and requesting an APE map.

### **August 24, 2012**

Letter to SHPO transmitting the Phase I and II Archaeological Investigations and Phase I and II Architectural History Evaluation of alternative alignments M-1 and E-2. Rouchleau Shops archaeological site is not eligible. Range Paper Company and West 5<sup>th</sup> Avenue South Boulevard are eligible but project will have no effects.

### **September 20, 2012**

Response from the SHPO concurring with the non-eligibility of Rouchleau Shops and the eligibility of West 5<sup>th</sup> Avenue South Boulevard but disagrees that Range Paper Company is eligible.

**October 26, 2012**

Letter to the SHPO acknowledging concurrence of eligibility of West 5<sup>th</sup> Avenue South Boulevard and non-eligibility of Range Paper Company. Alternative plans attachment includes M-1 (SW Alternative) and E-2 (NE Alternative) in relation to West 5<sup>th</sup> Avenue South Boulevard, concluding no adverse effect.

**November 20, 2012**

Response from the SHPO concurring with no adverse effect determination for SW or NE alternatives.

**November 5, 2013**

Letter to the SHPO stating two new alignments, E-1A and E-2A, were considered in an architectural Phase I and II report by Landscape Research (enclosed), in addition to the previous M-1 and E-2 alternatives. Coons Mine and the Minnewas Mine Lean Ore Stockpile Tailings Basin were identified with the latter evaluated and found not eligible. The archaeological report is forthcoming.

**December 6, 2013**

Response from the SHPO acknowledging concurrence of non-eligibility of the Coons Mine and the Minnewas Mine Lean Ore Stockpile Tailings Basin.

**December 6, 2013**

Letter to the SHPO stating three new alignments, E-1, E-1A and E-2A were considered in an archaeological Phase I and II report by Two Pines Resource Group (enclosed), in addition to the previous M-1 and E-2 alternatives. The Minnewas Homstead (21SL1208) was evaluated and found not to be eligible.

**January 9, 2014**

Letter to the SHPO reiterating the contents of our letter of 12/6/2013, and responding to the SHPO letter of 12/6/2013 by determining there are no historic properties affected by Alternatives E-1, E-1A, and E-2A.

**January 9, 2014**

Response from the SHPO concurring with our determination that the Minnewas Homstead is not eligible and our overall finding based on the archaeology and architecture identifications/surveys of no historic properties affected by Alternatives E-1, E-1A, and E-2A. Reiterated concurrence that M-1 (SW Alternative) and E-2 (Northeast Alternative) will have no adverse effect.

**March 4, 2014**

Letter and attachments to SHPO providing information on Alternative E-1A dewatering and noting no effect on historic properties.

**April 11, 2014**

Response from SHPO concurring that the temporary dewatering of the Rouchleau Mine Pit will have no effect on historic properties.

**July 16, 2014**

Letter to the SHPO that the W-1A Alternative Phase I architecture survey was completed and enclosed, even though it was earlier dropped from consideration.

**July 30, 2014**

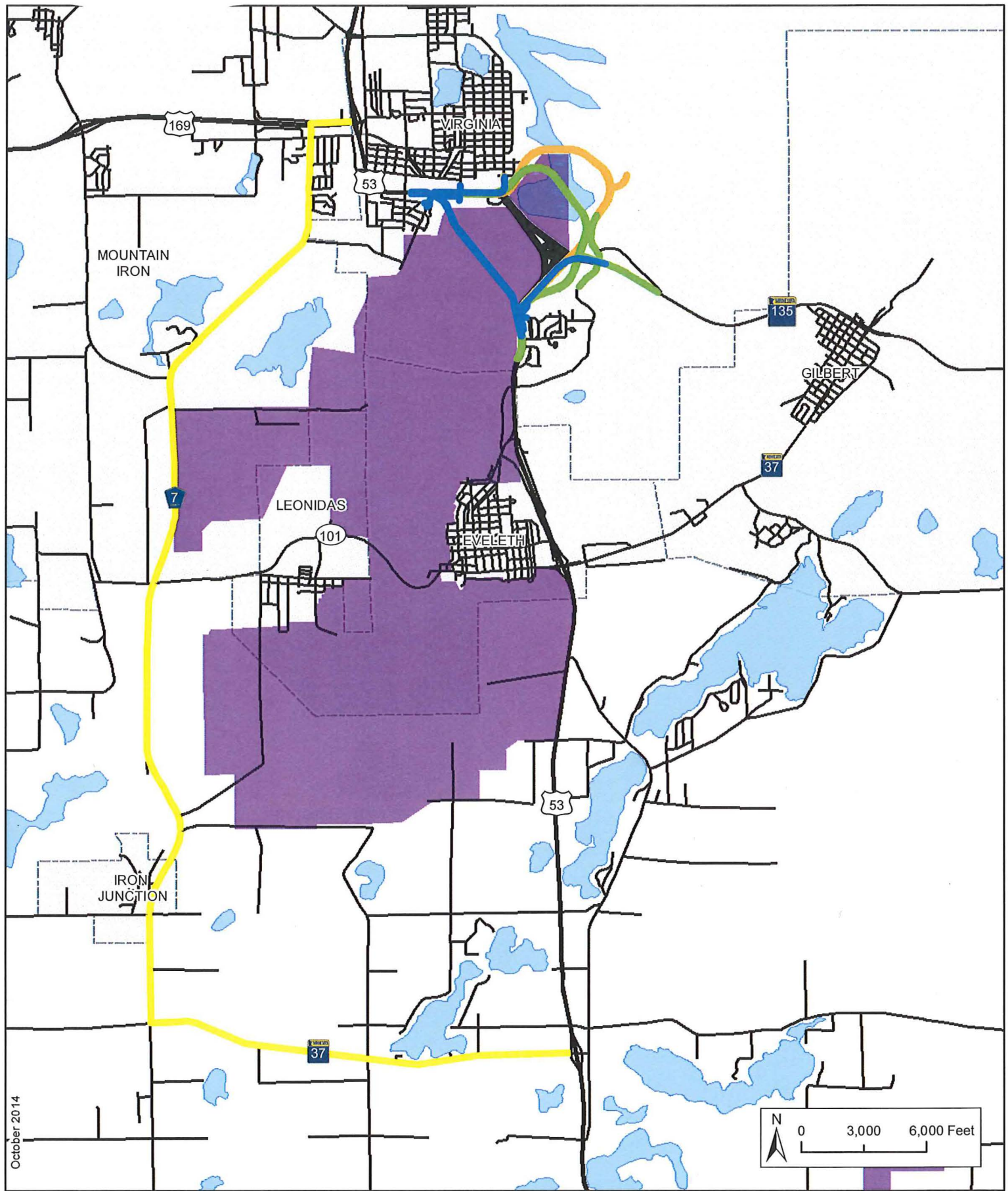
Response from the SHPO acknowledging receipt of the Phase I and II architecture history report and associated inventory forms, and dropping of the W-1A Alternative.

**October 9, 2014**

Letter to the SHPO with enclosed archaeological Phase I report by Two Pines Cultural Resources on the new E-2 Alternative alignment. The APE for this alignment is included within the earlier architectural APE, therefore no additional architectural identification was conducted. The archaeological report did not identify any additional sites, resulting in no change to our previous determinations of no historic properties adversely affected.

**November 7, 2014**

Response from the SHPO asking for clarification of the remaining alternative alignments, focusing on determination of effects.



Source: Environmental Setting Boundary (DNR)



Legend

- No Build Alternative (WIA)
- Alternative E-1
- Alternative E-2
- Alternative M-1
- Alternative E-1A
- UTAC Environmental Setting Boundary
- Municipalities
- Existing US 53 Alternative

**Figure 2.3-1**  
**All Alternatives**  
 US Highway 53 Virginia to Eveleth  
 Draft Environmental Impact Statement

**State Historic Preservation Office**

January 9, 2015

Mr. Craig Johnson  
MnDOT Cultural Resources Unit  
Transportation Building, MS 620  
395 John Ireland Boulevard  
St. Paul, MN 55155-1899

Re: S.P. 6918-80; T.H. 53 Relocation Project between Eveleth and Virginia  
St. Louis County  
SHPO Number: 2011-3404

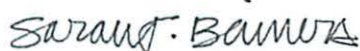
Dear Mr. Johnson:

Thank you for continuing consultation on the above project. Information received in our office on 9 December 2014 has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and implementing federal regulations at 36 CFR 800, and to the responsibilities given the Minnesota Historical Society by the Minnesota Historic Sites Act and the Minnesota Field Archaeology Act.

In response to our letter of November 7, 2014 you have now provided clarification regarding the remaining alternatives currently under consideration including a summary and status of Section 106 consultation with our office, including determinations of effect. We agree with the summary you have provided which indicates our office's previous "no adverse effect" concurrence with the following alternatives M-1 (SW Alternative), E-2 (Northeast Alternative and Revised NE Alternative) and "no historic properties adversely affected" for alternatives E-1A, E-2A, and E-1.

Feel free to contact me if you have any questions regarding our review. I can be reached at 651-259-3456 or by e-mail at [sarah.beimers@mnhs.org](mailto:sarah.beimers@mnhs.org).

Sincerely,



Sarah J. Beimers, Manager  
Government Programs and Compliance





**Minnesota Department of Transportation**

**Office of Environmental Stewardship**

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395 John Ireland Boulevard  
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March 9, 2015

Sarah Beimers  
State Historic Preservation Office  
Minnesota Historical Society  
345 Kellogg Blvd. W.  
St. Paul, MN 55102

Regarding: S.P. 6918-80 (TH 53, St. Louis County)  
Snow Storage Area  
RUSH Review  
SHPO: 2011-3404

Dear Ms. Beimers:

A snow storage area has been added to this project. It is located about a mile northeast of the TH 53 realignment (see attached maps). Modifications of this area for snow storage will be minimal, including removal of sparse foliage and construction of an access road.

There are no known archaeological sites in the area. A review of maps and aeriels but our project archaeological consultant, Michelle Terrell, indicates that the area was formerly excavated for a tailings pond. As a consequence, there is a no potential for any unknown or undisturbed archaeological sites.

Our arhitectural historian, Carole Zellie, feels that it may be on part of a mine dump for the Julia or Wyoming mine. She said this feature is highly unlikely to be eligible for listing on the National Register of Historic Places.

Based on this information, we have determined that no historic properties will be affected by this addition to the project.

Given the current schedule for the project, we are asking for an expedited review.

Sincerely,

A handwritten signature in black ink, appearing to read 'Craig Johnson', with a stylized, flowing script.

Craig Johnson  
Cultural Resources Unit (CRU)

cc: MnDOT CRU Project File  
Pat Huston, MnDOT D. 1  
Cindy Lillegaard, MnDOT D. 1  
Nancy Frick, MnDOT C.O.  
Beth Kunkel, Kimley-Horn



## State Historic Preservation Office

March 11, 2015

Mr. Craig Johnson  
MnDOT Cultural Resources Unit  
Transportation Building, MS 620  
395 John Ireland Boulevard  
St. Paul, MN 55155-1899

Re: S.P. 6918-80; T.H. 53 Relocation Project between Eveleth and Virginia  
St. Louis County  
SHPO Number: 2011-3404

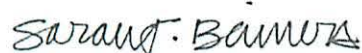
Dear Mr. Johnson:

Thank you for continuing consultation on the above project. Information received in our office on 10 March 2015 has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and implementing federal regulations at 36 CFR 800, and per the terms of the 2005 Programmatic Agreement between the Federal Highway Administration, the Minnesota Department of Transportation and the Minnesota State Historic Preservation Office.

We have reviewed the information included with your submittal of 9 March 2015 regarding the addition of a snow storage area to the project scope. Modifications that will be done to accommodate this storage area include removal of sparse foliage and construction of an access road. We concur with your determination that **no historic properties will be affected** by this minor addition to the project scope.

Please contact Kelly Gragg-Johnson at 651-259-3455 with any questions or concerns regarding our review.

Sincerely,



Sarah J. Beimers, Manager  
Government Programs and Compliance



**Minnesota Department of Transportation**

**Office of Environmental Stewardship**

Mail Stop 620  
395 John Ireland Boulevard  
St. Paul, MN 55155

Office Tel: (651) 366-3614

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April 10, 2015

Sarah Beimers  
State Historic Preservation Office  
Minnesota Historical Society  
345 Kellogg Blvd. W.  
St. Paul, MN 55102

Regarding: S.P. 6918-80 (TH 53, St. Louis County)  
Masabi Trail addition  
RUSH Review  
SHPO: 2011-3404

Dear Ms. Beimers:

A short trail segment about 2,000 feet long has been added to this project to connect several parts of the existing Masabi Trail. Trail work consists of removing existing vegetation and paving it with asphalt along this former railline. It begins at the eastern edge of the Rochleau Pit and ends at an existing paved trail segment (see enclosed maps). The longer segment that is already paved links up to the proposed new addition and follows a curving route to the east, where it is truncated by a new mine.

There are no known archaeological sites in the area. A review of maps and other records including the Great Northern Ore Properties series by our architectural historian, Carole Zellie, indicates that our previous recommendation of no eligibility for this railline also applies to this spur of the DM&IR/DM&N.

Based on this information, we have determined that no historic properties will be affected by this addition to the project.

Given the current schedule for the project, we are asking for an expedited review. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Craig Johnson', with a stylized, flowing script.

Craig Johnson  
Cultural Resources Unit (CRU)

cc: MnDOT CRU Project File  
Pat Huston, MnDOT D. 1  
Cindy Lillegaard, MnDOT D. 1  
Nancy Frick, MnDOT C.O.  
Beth Kunkel, Kimley-Horn

## State Historic Preservation Office

May 8, 2015

Mr. Craig Johnson  
MnDOT Cultural Resources Unit  
Transportation Building, MS 620  
395 John Ireland Boulevard  
St. Paul, MN 55155-1899

Re: S.P. 6918-80; T.H. 53 Relocation Project between Eveleth and Virginia  
Mesabi Trail Connection  
St. Louis County  
SHPO Number: 2011-3404

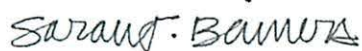
Dear Mr. Johnson:

Thank you for continuing consultation on the above project. Information received in our office on 13 April 2015 has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and implementing federal regulations at 36 CFR 800, and per the terms of the 2005 Programmatic Agreement between the Federal Highway Administration, the Minnesota Department of Transportation and the Minnesota State Historic Preservation Office.

We have reviewed the information included with your submittal of 10 April 2015 regarding the construction of a short trail segment to connect several parts of the existing Mesabi Trail. We concur with your determination that **no historic properties will be affected** by this minor addition to the project scope.

Please contact Kelly Gragg-Johnson at 651-259-3455 with any questions or concerns regarding our review.

Sincerely,



Sarah J. Beimers, Manager  
Government Programs and Compliance



## Minnesota Department of Transportation

395 John Ireland Boulevard  
Saint Paul, MN 55155

February 17, 2015

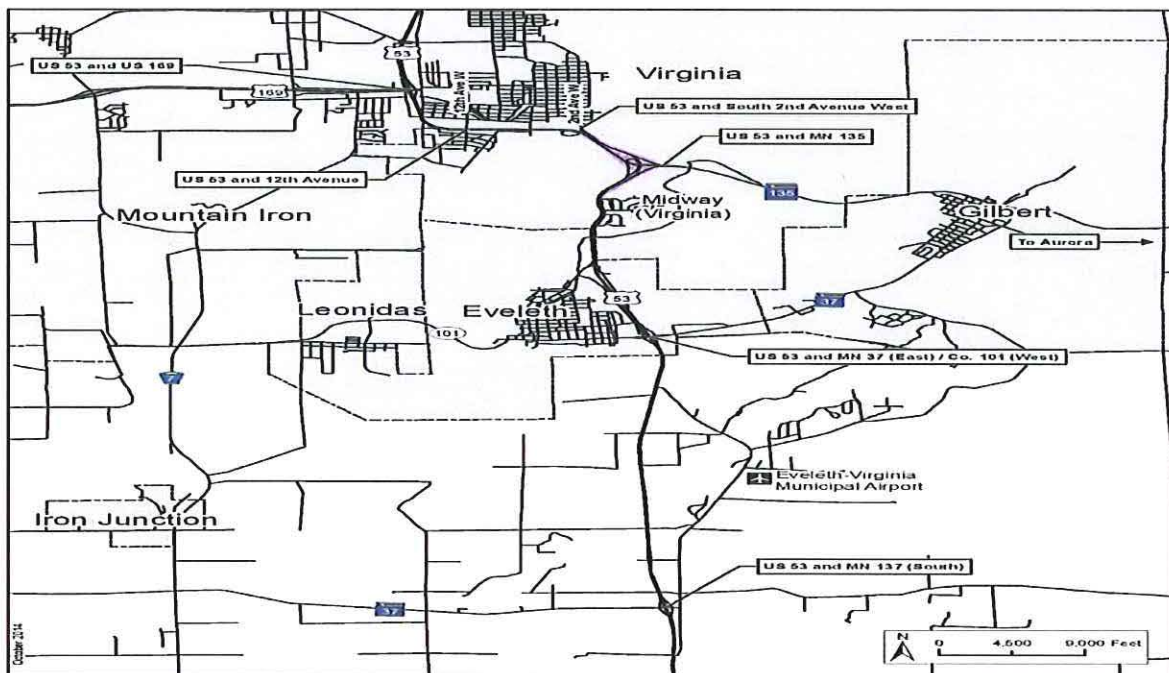
Andrew Horton  
Fish and Wildlife Biologist  
U.S. Fish and Wildlife Service  
Twin Cities ES Field Office  
4101 American Blvd East  
Bloomington, MN 55425-1665

State Project 6918-80, Trunk Highway 53, St. Louis County, Roadway Realignment  
Request for Concurrence – May Affect, Not Likely to Adversely Affect Determination – Canada Lynx (*Lynx canadensis*)  
Request for Concurrence – May Affect, Not Likely to Adversely Affect Determination – Gray wolf (*Canis lupus*)  
No Effect Determination – Rufa red knot (*Calidris canutus rufa*)  
No Effect Determination – Piping plover (*Charadrius melodus*)  
No Jeopardy Determination – northern long-eared bat (*Myotis septentrionalis*)

### Project Description

Since May 1960, MnDOT has operated a segment of US 53 on an easement granted by United States Steel Corporation (now RGGS Land and Minerals Co., or RGGS). This is roughly a one-mile segment of US 53, from approximately 2nd Avenue West to Cuyuna Drive in the City of Virginia, St. Louis County, Minnesota. This segment of roadway is subject to iron ore mining rights held by RGGS and Cliffs Natural Resources (United Taconite Division), the mine's owner and operator, respectively. At its east end, the US 53 easement segment connects with MN Trunk Highway 135 (MN 135), which provides the inter-regional link toward Gilbert and other communities to the east. Under the 1960 easement terms, MnDOT agreed to relocate US 53 upon notice from the mine owner/operator. On May 5, 2010, United Taconite (UTAC) provided notice to MnDOT that the 1960 easement rights would be terminated. Under the original easement terms, MnDOT must vacate the US 53 easement within three years. In response to the notice, MnDOT requested a seven-year timeframe for relocation of US 53. The two parties have signed an agreement to modify the easement vacation date as May 2017.

### Project Location Map



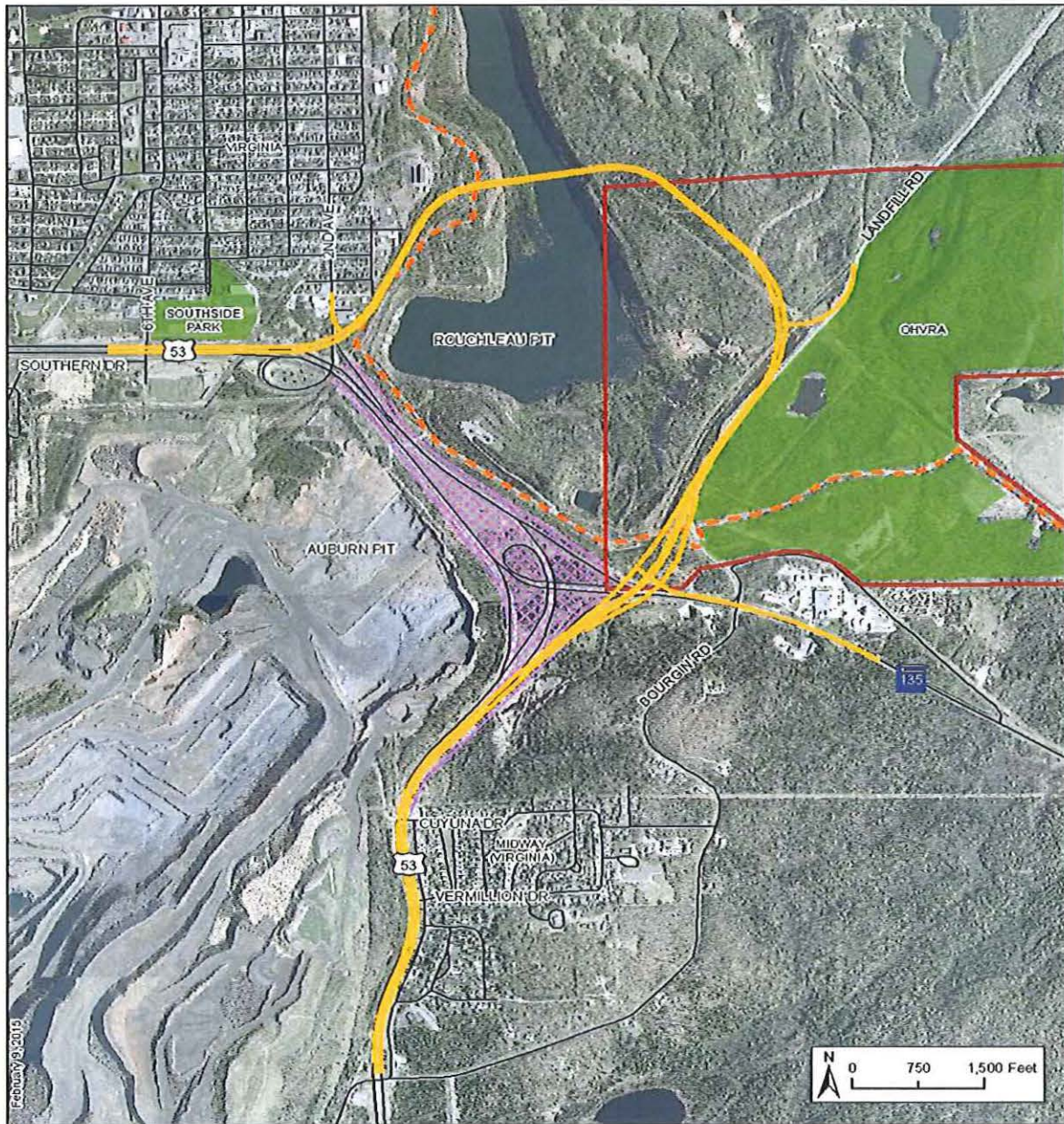
Legend  
Existing US 53 Easement Agreement Area  
Municipalities

Figure 1.3-1  
Local Connections  
US Highway 53 Virginia to Eveleth  
Draft Environmental Impact Statement



### Project Alternatives

Several project alternatives were advanced and analyzed using a sequential evaluation and screening process in order to arrive at a preferred project alternative. After reviewing the resulting data, alternative E2 was identified as the preferred alternative.



#### Legend

- Alternative E-2
- Existing US 53 Easement
- Agreement Area

- Existing School Trust Land
- Existing Mesabi Trail
- Existing Public Recreation Land

**Alternative E-2**  
**US Highway 53 Virginia to Eveleth**  
**Draft Environmental Impact Statement**



#### Previous Consultation

MnDOT on behalf of the Federal Highway Administration (FHWA) had previously informally consulted with the U.S. Fish and Wildlife Service (Service) on this action. On January 9, 2013, MnDOT sent a letter requesting concurrence for a may affect, not likely to adversely affect determination for Canada lynx. On February 21, 2013 the Service concurred with these determinations, concluding the informal consultation process under Section 7 of the Endangered Species Act of 1973, as Amended (Act).

Since the time of this consultation, changes have occurred to both the proposed action as well as the species receiving/proposed to receive protection under the Act. The discussion below focuses upon the current conditions of the project and species listing and the corresponding determinations.

#### Species List for the Project County

According to the official County Distribution of Minnesota's Federally-Listed Threatened, Endangered, Proposed, and Candidate Species list (revised in January 2015), maintained by the Service, the project county is within the distribution range of the following:

County	Species	Status	Habitat
St. Louis	<a href="#">Canada lynx</a> ( <i>Lynx canadensis</i> )	Threatened	Northern forest
	Canada lynx ( <i>Lynx canadensis</i> )	Critical Habitat	<a href="#">Map of lynx critical habitat in Minnesota</a>
	<a href="#">Gray wolf</a> <i>Canis lupus</i>	Threatened	Northern forest
	<a href="#">Northern long-eared bat</a> <i>Myotis septentrionalis</i>	Proposed as Endangered	Hibernates in caves and mines - swarming in surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.
	<a href="#">Piping Plover</a> ( <i>Charadrius melodus</i> ) Great Lakes Breeding Population	Endangered and <a href="#">Critical Habitat Designated in this county</a>	Sandy beaches, islands
	<a href="#">Rufa Red knot</a> ( <i>Calidris canutus rufa</i> )	Threatened	Coastal areas along Lake Superior

#### Species Proposed for Federal Listing in the Action Area

Section 7(a)(4) requires Federal agencies to confer with the Services on any agency action that is likely to jeopardize the continued existence of any species proposed for listing or result in the adverse modification of critical habitat proposed to be designated. A conference may involve informal discussions between the Services, the action agency, and the applicant. Following informal conference, the Services issue a conference report containing recommendations for reducing adverse effects. These recommendations are discretionary, because an agency is not prohibited from jeopardizing the continued existence of a proposed species or from adversely modifying proposed critical habitat. However, as soon as a listing action is finalized, the prohibition against jeopardy or adverse modification applies, regardless of the stage of the action.

While consultation under Section 7 of the Act is required when a proposed action "may affect" a listed species, a conference is required only if the proposed action is likely to jeopardize the continued existence of a proposed species or destroy or adversely modify proposed critical habitat. The Conference process is discretionary for all other effect determinations besides jeopardy/adverse modification. However, it is in the best interest of the species, and our federal partners to consider the value of voluntary conservation measures in a conference opinion or conference report for projects that are not likely to cause jeopardy, but are likely to adversely affect the NLEB.

#### Minnesota Department of Natural Resources – Northern long-eared bat - Summer/Winter Surveys

MnDOT contracted with the Minnesota Department of Natural Resources (MNDNR) to conduct summer and winter surveys in an attempt to determine if northern long-eared bats (NLEB) were present within the action area as well as potential wintering sites for this species.

Note: the project will be constructed well within the summer foraging range of the large hibernaculum which is located approximately 25 miles away at the Tower-Sudan Mine complex.



#### *Northern long-eared bat –Tree Removal*

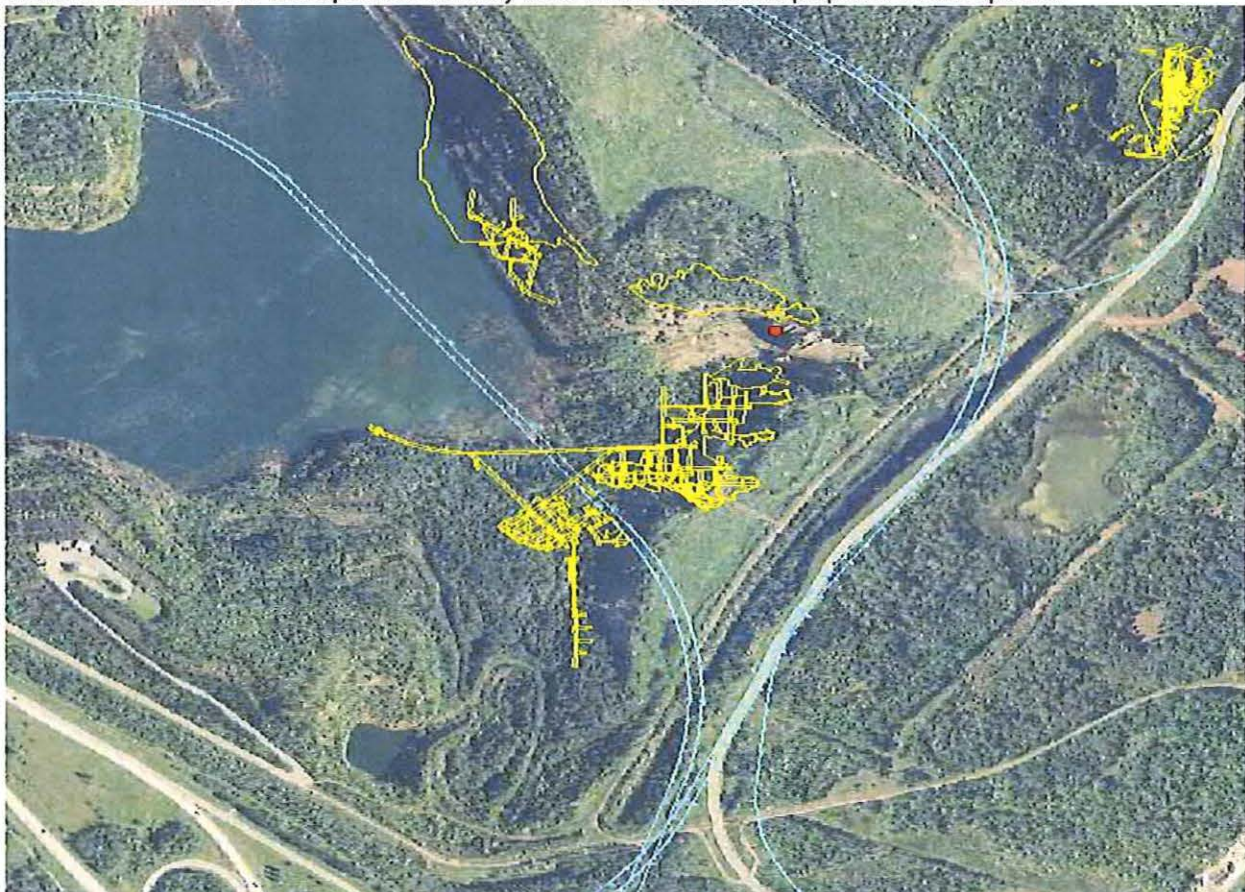
As indicated in the Northern Long-Eared Bat Interim Conference and Planning Guidance issued by the Service on January 6, 2014, the northern long-eared bat uses a variety of tree species during its summer roosting and foraging activities. As a result, any action that requires the removal of trees during this summer period, which is approximately, April 1- October 1, could potentially result in some form a take, either direct or indirect or potentially both. In order to minimize the potential for impacts, the Service recommends that tree removal occur during the winter season which is approximately October 1-April 1. MnDOT has commented to follow Service's recommended tree removal schedule.

#### *Northern long-eared bat - Potential Wintering Sites*

The MNDNR reviewed four potential fall swarming sites which were surveyed between 2 September and 8 October 2014 (see the attached MNDNR survey report). Detectors were set out twice at each site and run for 2-3 days. NLEB were detected at each site by identification software, but were not confirmed by MNDNR biologist for site 165 (which is shown on the figure below). While all sites showed bat activity in September, only site 165 showed a substantial number of call files for October. This site was the potential portal originally identified by MnDOT (see below) and suggests that fall swarming activity was taking place there. The majority of calls at this site were Little Brown Bats. While it is expected that this species would be the most abundant occupant of any hibernaculum at this site, it is possible that NLEB also hibernate here. None of the alternative analyzed, including the preferred, will directly impact site any for the four potential wintering sites.

#### *Northern long-eared bat –No Jeopardy Determination*

The potential project impacts were reviewed with the Service. It was determined that by following the winter tree removal schedule and due to the lack of direct impacts to the identified potential wintering sites, a determination of no jeopardy was the appropriate consultation path. **Therefore, MnDOT, on behalf of FHWA, has determined that these impacts are of not a magnitude that would result in jeopardizing the continued existence of this species.** Currently there is no critical habitat proposed for this species.





#### Federally-Listed Species/Designated Critical Habitat in the Action Area

Section 7 of Endangered Species Act of 1973, as amended (Act), requires each Federal agency to review any action that it funds, authorizes or carries out to determine whether it may affect threatened, endangered, proposed species or listed critical habitat. Federal agencies (or their designated representatives) must consult with the U.S. Fish and Wildlife Service (Service) if any such effects may occur as a result of their actions. Consultation with the Service is not necessary if the proposed action will not directly or indirectly affect listed species or critical habitat. If a federal agency finds that an action will have no effect on listed species or critical habitat, it should maintain a written record of that finding that includes the supporting rationale.

#### *Piping Plover – Determination of No Effect*

There are no known occurrences of this species within the action area. In addition, the project area does not contain habitat preferred by the species and is well outside of any designated critical habitat. Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.

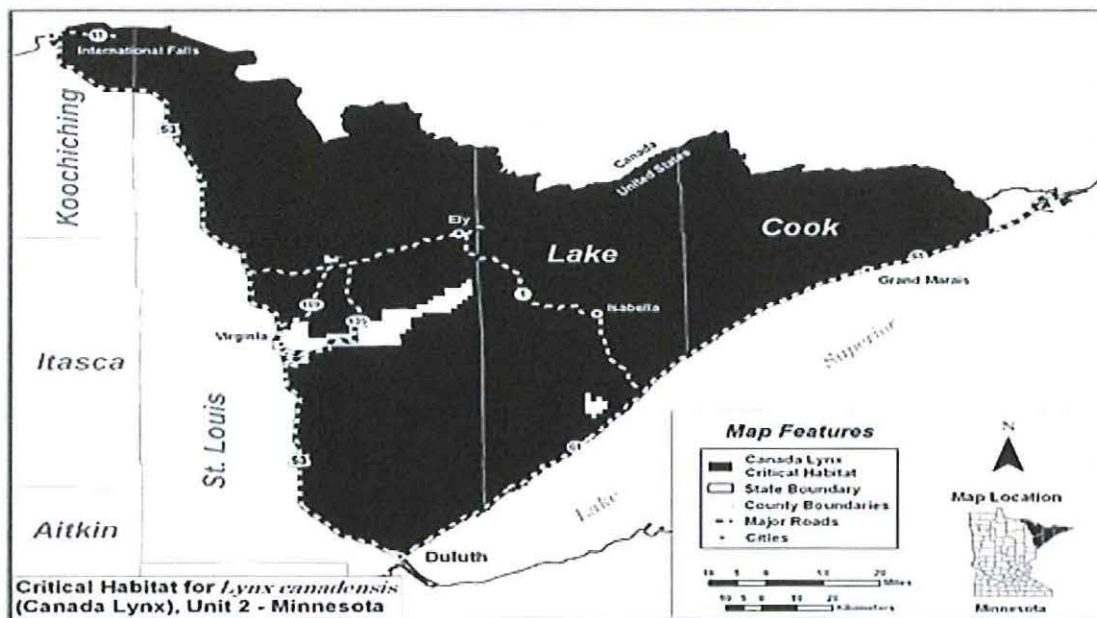
#### *Rufa red knot – Determination of No Effect*

There are no known occurrences of this species within the action area. In addition, the project area does not contain habitat preferred by the species. Currently there is no critical habitat proposed for this species. Therefore, MnDOT, on behalf of the FHWA, has made a determination of no effect for this species.

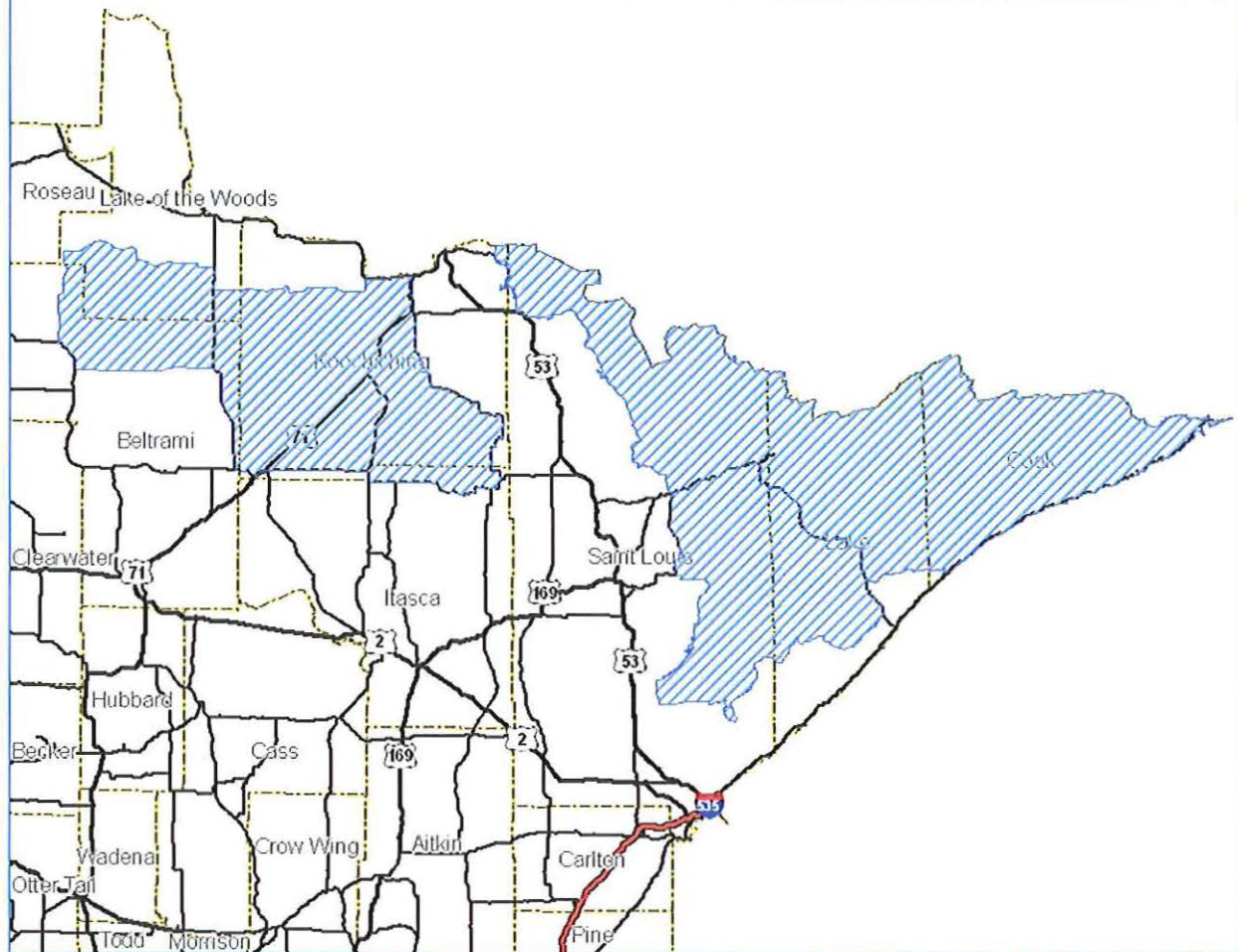
#### *Canada lynx / Gray Wolf – Determination of May Affect, but is not Likely to Adversely Affect*

The project location is within the distribution range of both the gray wolf and the Canada lynx but outside of the respective designated critical habitat areas for these species (see critical habitat maps on the below). However, since this project involves the relocation of a four-lane roadway, the Service was contacted to help determine the appropriate consultation path in accordance with Section 7 of the Endangered Species Act of 1973, as Amended.

After reviewing the proposed project, the extent of previous and current mining activity in the area which has resulted in major landscape level alterations and the lack of designated critical habitat in the project area, it was decided that a determination of may affect, but is not likely to adversely affect was the most appropriate consultation path.



Critical habitat for the gray wolf in Minnesota -  
Blue hatched areas



*Concurrence Request* - Based on the information and coordination provided above, MnDOT acting as the non-federal representative for the FHWA, has determined that the proposed action may affect, but is not likely to adversely affect the Canada lynx. We are requesting concurrence that consultation with your office under Section 7 of the Act is complete.

Please do not hesitate to contact me if there are any questions or concerns,

Jason Alcott  
Minnesota Department of Transportation  
Office of Environmental Stewardship  
395 John Ireland Boulevard  
St. Paul, MN 55155  
Phone: 651-366-3605  
Email: [Jason.alcott@state.mn.us](mailto:Jason.alcott@state.mn.us)



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Twin Cities Field Office  
4101 American Blvd E.  
Bloomington, Minnesota 55425-1665

March 20, 2015

Mr. Jason Alcott  
Natural Resource Specialist  
Minnesota Department of Transportation  
395 John Ireland Boulevard  
St. Paul, Minnesota 55155-1899

RE: FWS No. 03E19000-2013-I-0038-R001  
Reinitiation of consultation for gray wolf and  
Conference for northern long-eared bat

Dear Mr. Alcott:

The U.S. Fish and Wildlife Service (Service) received your February 17, 2015 letter requesting concurrence concerning gray wolf (*Canis lupus*) impacts and informal conferencing for the northern long-eared bat (*Myotis septentrionalis*; NLEB) for the proposed Trunk Highway 53 Roadway Reconstruction/Realignment Project (Project). The Minnesota Department of Transportation (MNDOT), on behalf of Federal Highway Administration (FHWA), requested concurrence on its "may affect, not likely to adversely affect" determination for gray wolf in accordance with Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*). MNDOT, on behalf of FHWA, has also made a "no jeopardy" determination for NLEB. The gray wolf was re-listed as a threatened species under the ESA on December 19, 2014, and NLEB was proposed as federally-endangered on October 2, 2013, resulting in the MNDOT's reinitiation of informal consultation for this Project.

The Service originally provided a letter of concurrence for this Project (Service No. 03E1900-2013-I-0038) on February 21, 2013, covering Canada lynx (*Lynx canadensis*). The proposed action has been modified slightly since this concurrence, but will continue to involve the same construction activities. Alternative E-2 has been selected as the preferred alternative and MNDOT will now have until May 2017 to vacate the easement on the original US53 alignment. A complete administrative record of this consultation is on file in this office.

### Canada Lynx

Your February 21, 2013 letter assessed the effects of the proposed Project on the federally-threatened Canada lynx. We concur with your determination that the proposed project may affect but will not likely adversely affect the Canada lynx. Our concurrence is based on Highway 53 retaining the same speed limit as the old alignment and the likelihood that the proposed project will not result in increased traffic. Approximately 40 acres of trees are located within the project footprint; however, this area has been identified as a highly disturbed area that

lacks boreal forests suitable for Canada lynx. Road density will not increase in the area since the original alignment will be removed. The abandoned portion of the highway will be incorporated into the United Taconite mine pit. The proposed action area is located outside of designated Canada lynx critical habitat.

#### Gray wolf

We concur with your determination that the Project may affect, but is not likely to adversely affect gray wolf. Our concurrence is based on Highway 53 retaining the same speed limit as the old alignment and the likelihood that the proposed project will not result in increased traffic. Approximately 40 acres of trees are located within the project footprint; however, this area has been identified as a highly disturbed area that lacks high quality habitat suitable for gray wolf. Road density will not increase in the area since the original alignment will be removed. The abandoned portion of the highway will be incorporated into the United Taconite mine pit. The proposed action area is located outside of designated gray wolf critical habitat.

#### Northern long-eared bat

The NLEB was proposed for federal listing under the ESA (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) on October 2, 2013. No critical habitat has been proposed at this time. Pursuant to Section 7(a)(4) of the ESA, federal action agencies are required to confer with the Service if they determine that the proposed federal action is likely to jeopardize the continued existence of the NLEB (50 CFR 402.10(a)). Action agencies may also voluntarily confer with the Service if the proposed action may affect a proposed species. To conference on a species that is proposed for listing is similar to "consultation" on species that is listed under the ESA.

Although species proposed for listing are not afforded protection under the ESA, when a species is listed, the prohibitions against jeopardizing its continued existence and unauthorized "take" are effective immediately, regardless of an action's stage of completion. Therefore, if implementation of the proposed project occurs after a northern long-eared bat final listing decision is made (a final listing decision is expected by April 2, 2015), consultation will likely be required under Section 7 of the Act. If the NLEB is listed as federally-threatened or endangered under the Act, and the proposed action "may affect" northern long-eared bat, consultation will be required under Section 7 of the Act.

#### Northern long-eared bat Conference Report

Your February 17, 2015, letter provided rationale for your determination that the proposed Project is not likely to jeopardize the continued existence of this species. This letter also included Minnesota Department of Natural Resources' (MDNR) Final Report on northern long-eared bat Surveys in the TH 53 Project Area. The report identified NLEB utilizing the project area at all 12 acoustical monitor locations, but could not confirm fall swarming outside of suspected hibernacula for the species. Only little brown bat was identified at the entrance of suspected hibernacula, although the report suggests that it is possible that NLEB also hibernate at the location approximately 0.13 miles from Alternative E-2 and the existing Landfill Road.

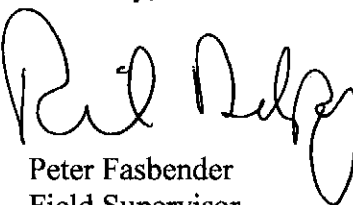


Based on the following information, the Service does not believe that this project is likely to jeopardize the continued existence of this species.

- The proposed Project area does contain known bat hibernacula; however, use by NLEB has not been confirmed. The closest known NLEB hibernaculum is more than 25 miles from the project area.
- MNDOT has determined that Alternative E-2 will not directly impact any of the four potential wintering sites identified in the MDNR report.
- MNDOT has committed to conducting tree clearing outside of the summer roost season. The species is not anticipated to be present within the action area between October 15<sup>th</sup> and March 30<sup>th</sup> and the clearing of trees during this time would not result in direct take.
- Approximately 40 acres of forested habitat would be removed as a result of this project and a small percentage of this is anticipated to be suitable summer roosting habitat (trees of >3 inches in diameter at breast height). The total acres of potential summer roosting habitat would represent a small percentage of potential suitable summer habitat available in the surrounding landscape. Loss of this habitat is not expected to have significant impact on current population levels.
- White-nose syndrome (WNS) has not been confirmed in Minnesota; however, Soudan Mine and Mystery Cave are known to harbor the fungus that causes white nose syndrome (*Pseudogymnoascus destructans*). To our knowledge, the fungus has not caused WNS in bats in Minnesota, and we conclude that the local population of northern long-eared bats in the action area is not yet impacted by WNS.

This concludes consultation under Section 7 of the Endangered Species Act, as amended, for the gray wolf, Canada lynx and informal conferencing for the NLEB. Please contact the Service if the project changes or new information reveals effects of the action to proposed or listed species or critical habitat to an extent not covered in your Biological Assessment. We will continue our coordination with your office once a final listing decision for NLEB has been reached to provide any additional guidance, if necessary. If you have questions, please contact Mr. Andrew Horton, Fish and Wildlife Biologist, at 612-725-3548 (extension 2208), or via email at [andrew\\_horton@fws.gov](mailto:andrew_horton@fws.gov).

Sincerely,

  
For Peter Fasbender  
Field Supervisor

cc (email only): Nancy Frick, Minnesota Department of Transportation



## Minnesota Department of Transportation

395 John Ireland Boulevard  
Saint Paul, MN 55155

July 15, 2015

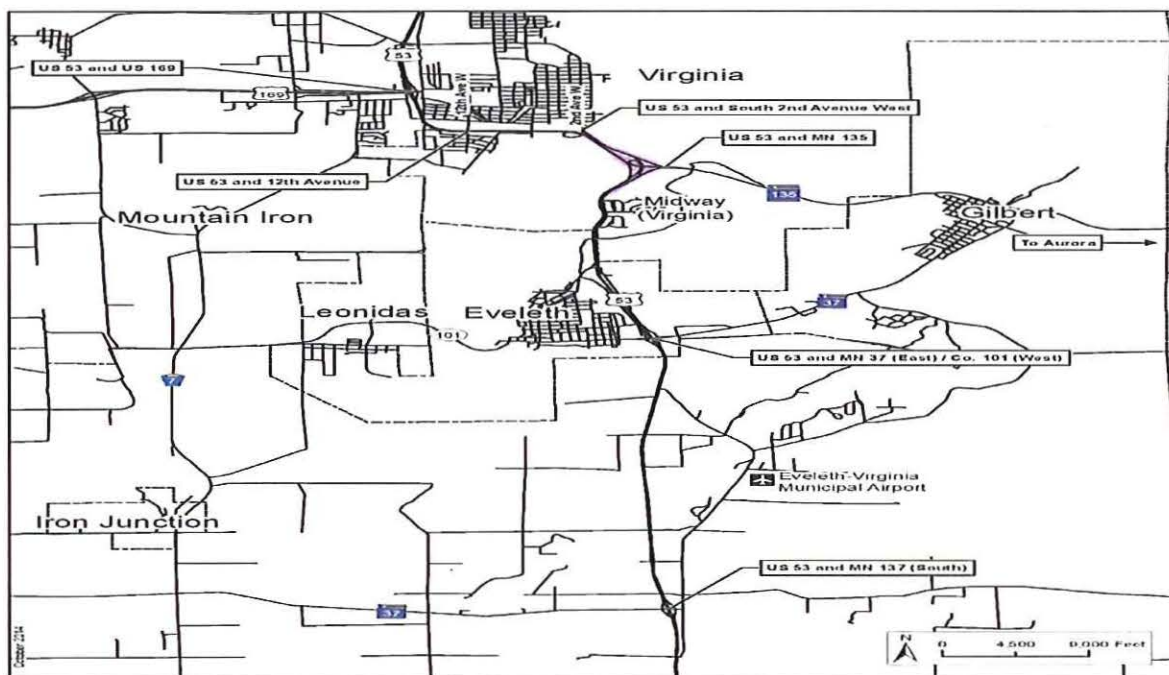
Andrew Horton  
Fish and Wildlife Biologist  
U.S. Fish and Wildlife Service  
Twin Cities ES Field Office  
4101 American Blvd East  
Bloomington, MN 55425-1665

State Project 6918-80, Trunk Highway 53, St. Louis County, Roadway Realignment  
Request for Concurrence – May Affect, Not Likely to Adversely Affect Determination – Canada Lynx (*Lynx canadensis*)  
Request for Concurrence – May Affect, Not Likely to Adversely Affect Determination – Gray wolf (*Canis lupus*)  
No Effect Determination – Rufa red knot (*Calidris canutus rufa*)  
No Effect Determination – Piping plover (*Charadrius melodus*)  
Request for Concurrence – May Affect, Not Likely to Adversely Affect Determination northern long-eared bat (*Myotis septentrionalis*)

### Project Description

Since May 1960, MnDOT has operated a segment of US 53 on an easement granted by United States Steel Corporation (now RGGS Land and Minerals Co., or RGGS). This is roughly a one-mile segment of US 53, from approximately 2nd Avenue West to Cuyuna Drive in the City of Virginia, St. Louis County, Minnesota. This segment of roadway is subject to iron ore mining rights held by RGGS and Cliffs Natural Resources (United Taconite Division), the mine's owner and operator, respectively. At its east end, the US 53 easement segment connects with MN Trunk Highway 135 (MN 135), which provides the inter-regional link toward Gilbert and other communities to the east. Under the 1960 easement terms, MnDOT agreed to relocate US 53 upon notice from the mine owner/operator. On May 5, 2010, United Taconite (UTAC) provided notice to MnDOT that the 1960 easement rights would be terminated. Under the original easement terms, MnDOT must vacate the US 53 easement within three years. In response to the notice, MnDOT requested a seven-year timeframe for relocation of US 53. The two parties have signed an agreement to modify the easement vacation date as May 2017.

### Project Location Map



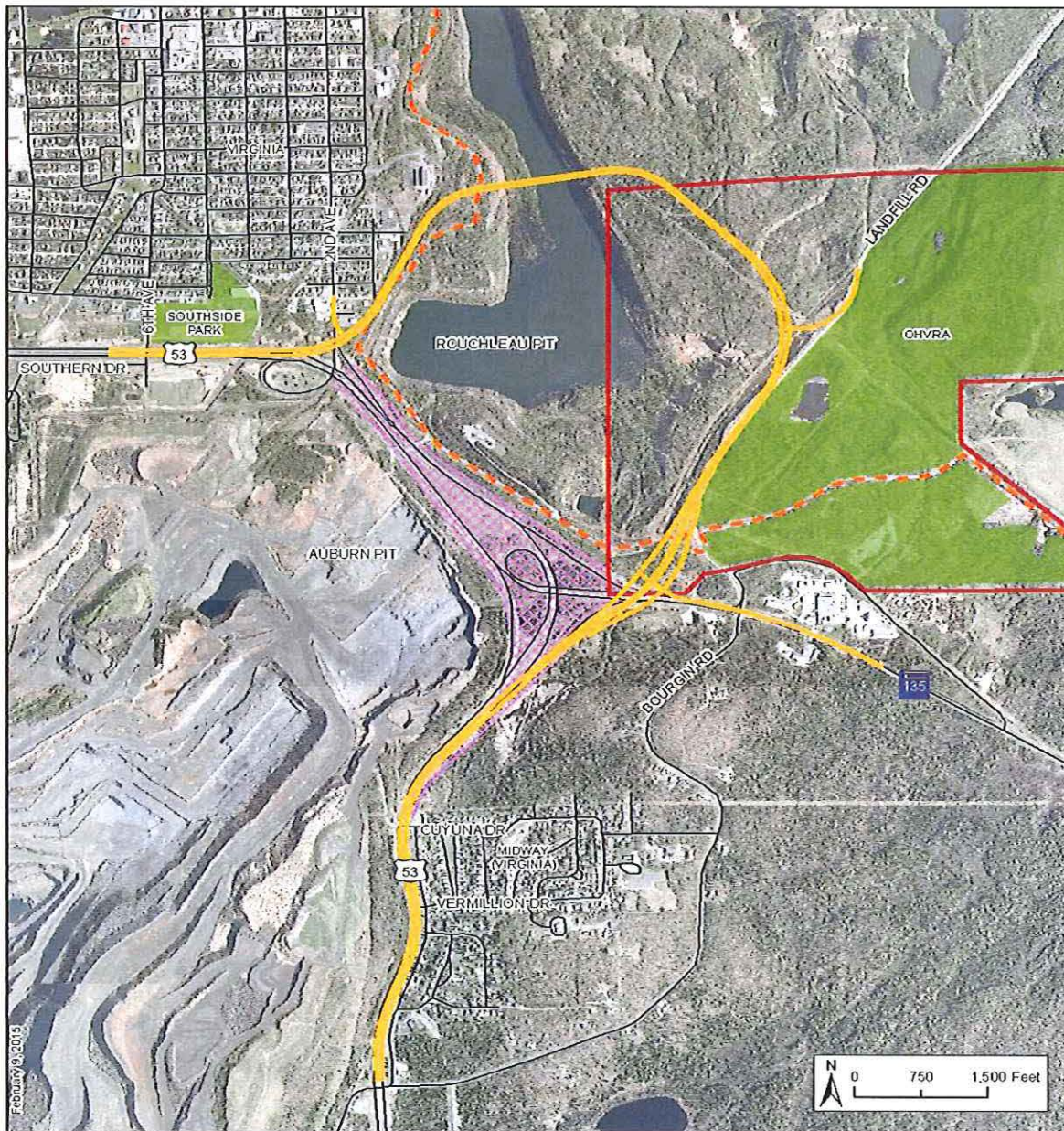
Legend  
Existing US 53 Easement Agreement Area  
Municipalities

Figure 1.3-1  
Local Connections  
US Highway 53 Virginia to Eveleth  
Draft Environmental Impact Statement



## Project Alternatives

Several project alternatives were advanced and analyzed using a sequential evaluation and screening process in order to arrive at a preferred project alternative. After reviewing the resulting data, alternative E2 was identified as the preferred alternative.



### Legend

- Alternative E-2
- Existing US 53 Easement
- Agreement Area

- Existing School Trust Land
- Existing Mesabi Trail
- Existing Public Recreation Land

**Alternative E-2**  
**US Highway 53 Virginia to Eveleth**  
**Draft Environmental Impact Statement**



#### Previous Consultation

MnDOT on behalf of the Federal Highway Administration (FHWA) had previously informally consulted with the U.S. Fish and Wildlife Service (Service) on this action. On January 9, 2013, MnDOT sent a letter requesting concurrence for a may affect, not likely to adversely affect determination for Canada lynx. On February 21, 2013 the Service concurred with these determinations, concluding the informal consultation process under Section 7 of the Endangered Species Act of 1973, as Amended (Act).

Since the time of the 2013 consultation, changes have occurred to the species receiving/proposed to receive protection under the Act. On February 17, 2015, due to the re-listing of the gray wolf in 2014, MnDOT on behalf of the FHWA again informally consulted with the Service requesting concurrence for the may affect, not likely to adversely affect determination for the gray wolf and provided updated determinations on the other species within the action area. On March 20, 2015, the Service concurred with these updated determinations.

May 4, 2015, the northern long-eared bat was officially listed as threatened by the Service, due to this change in species status, MnDOT is again updating this informal consultation. MnDOT on behalf of FHWA has determined that the proposed action may affect, but is not likely to adversely affect the northern long-eared bat and is requesting concurrence from the Service on this determination as well as providing updated concurrences for the gray wolf and the Canada lynx.

The discussion below focuses upon the current conditions of the project and species listing and the corresponding determinations.

#### Species List for the Project County

According to the official County Distribution of Minnesota's Federally-Listed Threatened, Endangered, Proposed, and Candidate Species list (revised in April 2015), maintained by the Service, the project county is within the distribution range of the following:

County	Species	Status	Habitat
St. Louis	<a href="#">Canada lynx</a> ( <i>Lynx canadensis</i> )	Threatened	Northern forest
	Canada lynx ( <i>Lynx canadensis</i> )	Critical Habitat	<a href="#">Map of lynx critical habitat in Minnesota</a>
	<a href="#">Gray wolf</a> <i>Canis lupus</i>	Threatened	Northern forest
	<a href="#">Northern long-eared bat</a> <i>Myotis septentrionalis</i>	Threatened	Hibernates in caves and mines - swarming in surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.
	<a href="#">Piping Plover</a> ( <i>Charadrius melodus</i> ) Great Lakes Breeding Population	Endangered and <a href="#">Critical Habitat Designated in this county</a>	Sandy beaches, islands
	<a href="#">Rufa Red knot</a> ( <i>Calidris canutus rufa</i> )	Threatened	Coastal areas along Lake Superior

#### Federally-Listed Species/Designated Critical Habitat in the Action Area

Section 7 of the Act requires each Federal agency to review any action that it funds, authorizes or carries out to determine whether it may affect threatened, endangered, proposed species or listed critical habitat. Federal agencies (or their designated representatives) must consult with the Service if any such effects may occur as a result of their actions. Consultation with the Service is not necessary if the proposed action will not directly or indirectly affect listed species or critical habitat. If a federal agency finds that an action will have no effect on listed species or critical habitat, it should maintain a written record of that finding that includes the supporting rationale.

*Northern long-eared bat - Determination of May Affect, but is not Likely to Adversely Affect*

*Minnesota Department of Natural Resources – Northern long-eared bat - Summer/Winter Surveys*

MnDOT contracted with the Minnesota Department of Natural Resources (MNDNR) to conduct summer and winter surveys in an attempt to determine if northern long-eared bats (NLEB) were present within the action area as well as potential wintering sites for this species.

Note: the project will be constructed well within the summer foraging range of the large hibernaculum which is located approximately 25 miles away at the Tower-Sudan Mine complex.

*Northern long-eared bat –Tree Removal*

As indicated in the Northern Long-Eared Bat Interim Conference and Planning Guidance issued by the Service on January 6, 2014, the northern long-eared bat uses a variety of tree species during its summer roosting and foraging activities. As a result, any action that requires the removal of trees during this summer period, which is approximately, April 1- October 1, could potentially result in some form of take, either direct or indirect or potentially both. In order to minimize the potential for impacts, the Service recommends that tree removal occur during the winter season which is approximately October 1-April 1. MnDOT has commented to follow Service's recommended tree removal schedule.

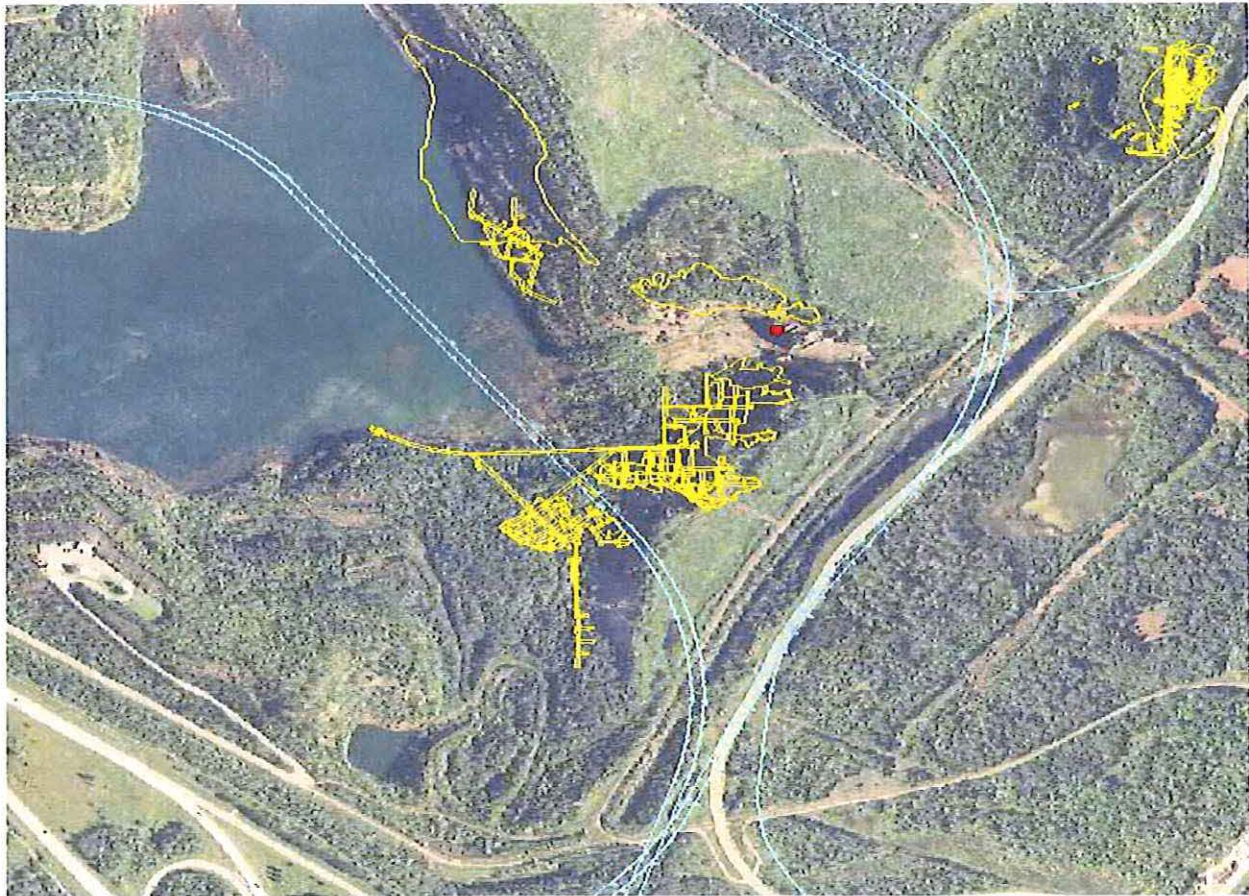
*Northern long-eared bat - Potential Wintering Sites*

The MNDNR reviewed four potential fall swarming sites which were surveyed between 2 September and 8 October 2014 (see the attached MNDNR survey report). Detectors were set out twice at each site and run for 2-3 days. NLEB were detected at each site by identification software, but were not confirmed by MNDNR biologist for site 165 (which is shown on the figure below). While all sites showed bat activity in September, only site 165 showed a substantial number of call files for October. This site was the potential portal originally identified by MnDOT (see below) and suggests that fall swarming activity was taking place there. The majority of calls at this site were Little Brown Bats. While it is expected that this species would be the most abundant occupant of any hibernaculum at this site, it is possible that NLEB also hibernate here. None of the alternatives analyzed, including the preferred, will directly impact any for the four potential wintering sites.

*Northern long-eared bat - Determination*

The potential project impacts were reviewed with the Service. MnDOT on behalf of FHWA initially determined that the project impacts were not of a magnitude that would result in jeopardizing the continued existence of this species. However, since the change in the species status in May of 2015 to threatened, updated consultation and a new determination of effect is now required. Based on further coordination with the Service, it was determined that by following the winter tree removal schedule and due to the lack of direct impacts to the identified potential wintering sites, a determination of may affect, but is not likely to adversely affect is the appropriate consultation path. **Therefore, MnDOT, on behalf of FHWA, has determined that the proposed action may affect, but is not likely to adversely affect the northern long-eared bat.** Currently there is no critical habitat proposed for this species.





*Piping Plover – Determination of No Effect*

There are no known occurrences of this species within the action area. In addition, the project area does not contain habitat preferred by the species and is well outside of any designated critical habitat. **Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.**

*Rufa red knot – Determination of No Effect*

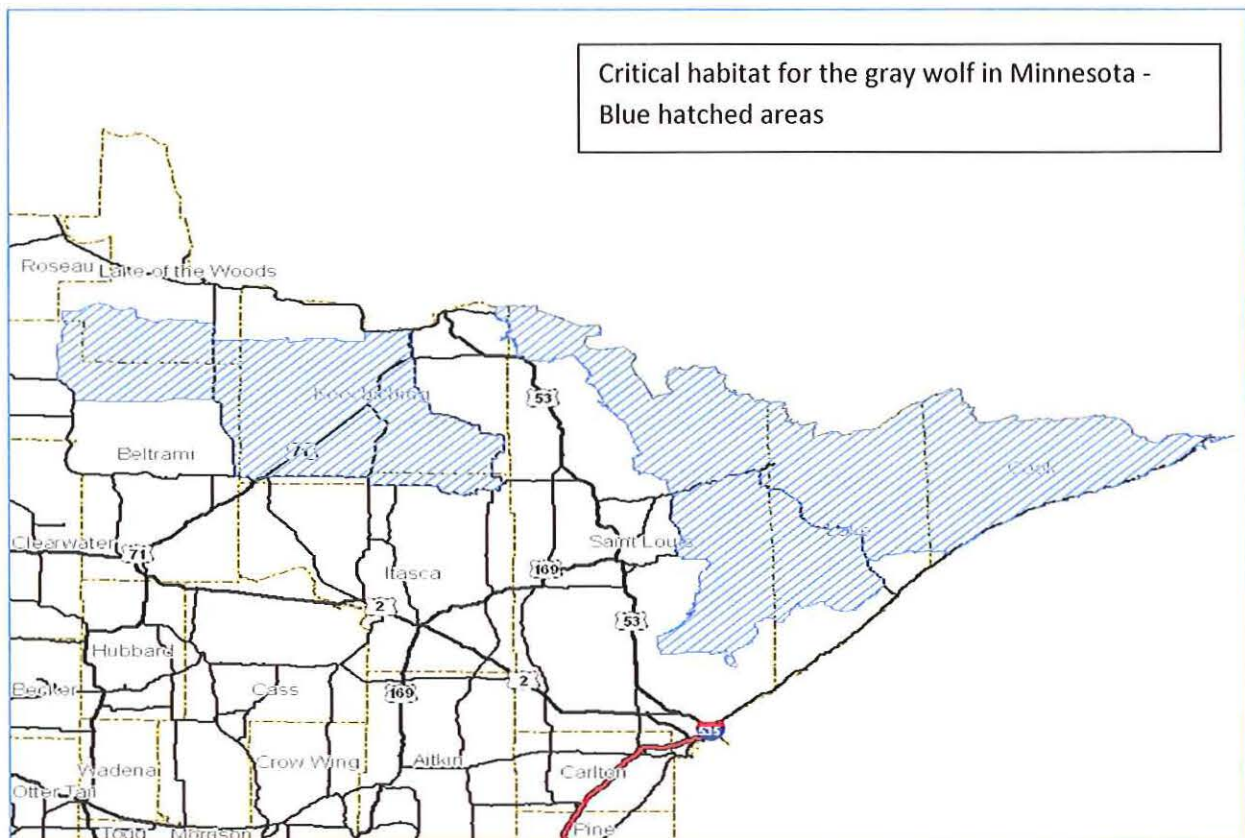
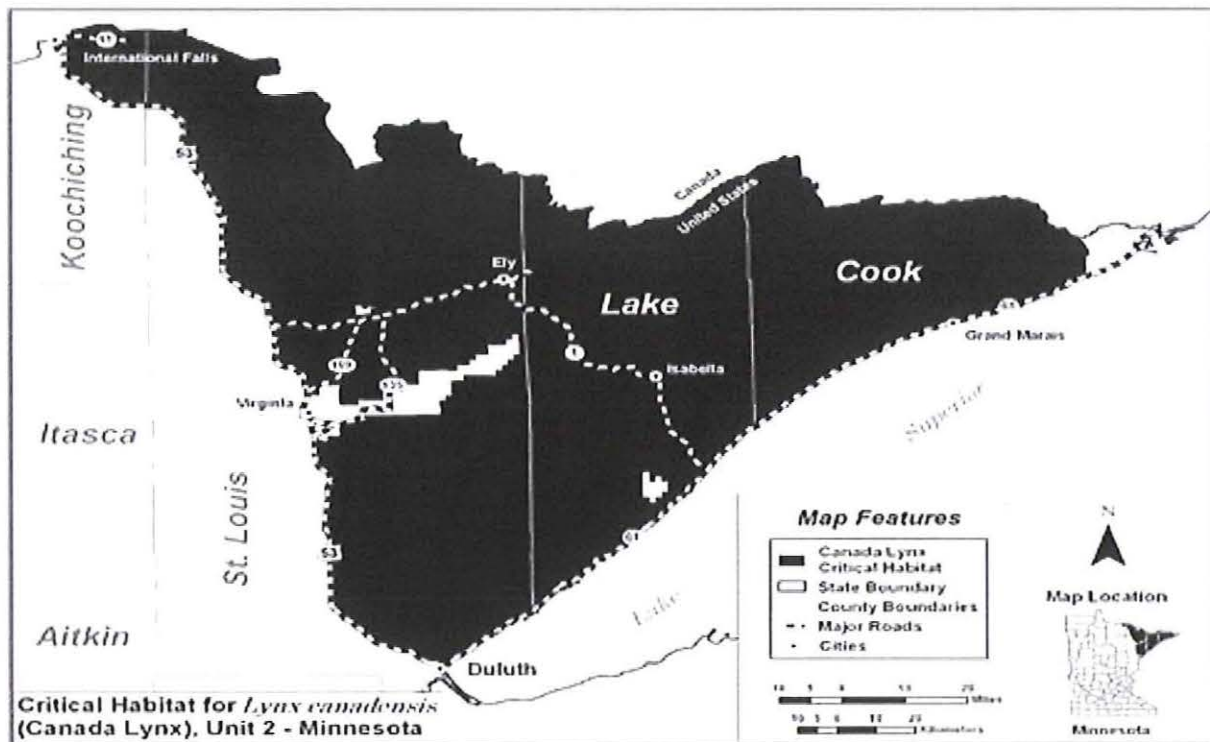
There are no known occurrences of this species within the action area. In addition, the project area does not contain habitat preferred by the species. Currently there is no critical habitat proposed for this species. **Therefore, MnDOT, on behalf of the FWHA, has made a determination of no effect for this species.**

*Canada lynx / Gray Wolf – Determination of May Affect, but is not Likely to Adversely Affect*

The project location is within the distribution range of both the gray wolf and the Canada lynx but outside of the respective designated critical habitat areas for these species (see critical habitat maps on the below). However, since this project involves the relocation of a four-lane roadway, the Service was contacted to help determine the appropriate consultation path in accordance with Section 7 of the Endangered Species Act of 1973, as Amended.

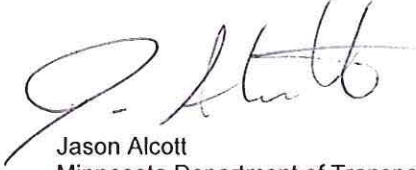
After reviewing the proposed project, the extent of previous and current mining activity in the area which has resulted in major landscape level alterations and the lack of designated critical habitat in the project area, it was decided that a determination of may affect, but is not likely to adversely affect was the most appropriate consultation path.





*Concurrence Request* - Based on the information and coordination provided above, MnDOT acting as the non-federal representative for the FHWA, has determined that the proposed action may affect, but is not likely to adversely affect the Canada lynx, gray wolf, or the northern long-eared bat. We are requesting concurrence that consultation with your office under Section 7 of the Act is complete.

Please do not hesitate to contact me if there are any questions or concerns,

A handwritten signature in black ink, appearing to read "J. Alcott", is positioned above the printed name and contact information.

Jason Alcott  
Minnesota Department of Transportation  
Office of Environmental Stewardship  
395 John Ireland Boulevard  
St. Paul, MN 55155  
Phone: 651-366-3605  
Email: [Jason.alcott@state.mn.us](mailto:Jason.alcott@state.mn.us)





## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Twin Cities Field Office  
4101 American Blvd E.  
Bloomington, Minnesota 55425-1665

July 23, 2015

Mr. Jason Alcott  
Natural Resource Specialist  
Minnesota Department of Transportation  
395 John Ireland Boulevard  
St. Paul, Minnesota 55155-1899

RE: FWS No. 03E19000-2013-I-0038-R002  
Informal consultation for northern long-eared bat

Dear Mr. Alcott:

The U.S. Fish and Wildlife Service (Service) received your July 15, 2015, letter requesting concurrence concerning potential northern long-eared bat (*Myotis septentrionalis*; NLEB) impacts relating to the proposed Trunk Highway 53 Roadway Reconstruction/Realignment Project (Project). The Minnesota Department of Transportation (MnDOT), on behalf of Federal Highway Administration (FHWA), requested concurrence on its "may affect, not likely to adversely affect" determination for NLEB in accordance with Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*). The Service originally provided a letter of concurrence for this Project (Service No. 03E1900-2013-I-0038) on February 21, 2013, covering Canada lynx (*Lynx canadensis*) and on March 18, 2015, (Service No. 03E1900-2013-I-0038-R001) for gray wolf (*Canis lupus*).

As described in your July 2015 letter and additional correspondence, the proposed action is anticipated to remove approximately 40 acres of upland forest outside of the NLEB summer roost season for the purpose of relocating Trunk Highway 53 prior to May 2017 when the original US53 alignment easement expires. The Minnesota Department of Natural Resources (MDNR) has identified NLEB utilizing the project area at 12 acoustical monitor locations during the summer, but could not confirm fall swarming outside of suspected hibernacula for the species; therefore, winter presence near the action area is not suspected at this time.

Of the 40 acres of forest anticipated to be cleared, only a small percentage is anticipated to be suitable summer roosting habitat (trees of >3 inches in diameter at breast height) for NLEB. The total acreage of potential summer roosting habitat removed by this project represent a small percentage of the potential suitable summer habitat available in the surrounding landscape. Based on the timing of tree removal proposed by MnDOT, direct take of the species is not anticipated, and removal of 40 acres of forest along the new Trunk Highway 53 alignment is not anticipated to appreciably change the usability of northern long-eared bat habitat in the area.



Based on the information summarized above, we concur that the proposed action may affect, but is not likely to adversely affect the northern long-eared bat. This concludes Section 7(a)(2) consultation. For further information, or if new information not previously considered may result in additional effects to the northern long-eared bat, please contact Andrew Horton at 612-725-3548 (extension 2208) or via email at [andrew\\_horton@fws.gov](mailto:andrew_horton@fws.gov).

Sincerely,

A handwritten signature in cursive script that reads "Lisa Mandell".

*for* Peter Fasbender  
Field Supervisor



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
ST. PAUL DISTRICT, CORPS OF ENGINEERS  
180 FIFTH STREET EAST, SUITE 700  
ST. PAUL, MN 55101-1678

FEB 02 2015

Operations Division  
Regulatory Branch (2011-00769-DWW)

Mr. Pat Huston, Project Manager  
Minnesota Department of Transportation District 1  
1123 Mesaba Avenue  
Duluth, Minnesota 55811

Dear Mr. Huston:

We are writing to provide comments as a cooperating agency on the Draft Environmental Impact Statement (DEIS), dated December 2014, prepared for the U.S. Highway 53 Virginia to Eveleth project (State Project #6918-80) and concurrence with the identification of the selected alternative (Concurrence Point 3). The DEIS describes the environmental impacts associated with the proposed State Project (SP) that addresses the termination of MnDOT's easement rights for the one and a half mile segment of U.S. Trunk Highway 53, from approximately 2<sup>nd</sup> Avenue West to Cuyuna Drive in the City of Virginia. The SP review area is located in the middle of the Quad Cities of the Mesabi Range of the Iron Range, which includes the cities of Eveleth, Gilbert, Mountain Iron, and Virginia, in St. Louis County, Minnesota.

DEIS Comments

We have reviewed the DEIS and have the following comments:

- A | 1. We would recommend that the land use information in Table ES-1 be modified to address reasonably foreseeable effects resulting from changes to surface and mineral rights within the corridor.
- B | 2. Pursuant to a December 19, 2014, Federal court decision, the Gray Wolf has been relisted under the Endangered Species Act as threatened. As a result, impacts to the species and its critical habitat should be evaluated as the result of the proposed project. The evaluation should ultimately be coordinated with the United States Fish and Wildlife Service.
- C | 3. We are requesting information about the amount and type of material to be placed in the Rouchleau Pit for the bridge construction activities.
- D | 4. We are requesting added transparency about the details of a permanent solution (easement terms and conditions) to protect the public investment and proposed highway infrastructure within the project corridor. It is unclear in the DEIS what scenarios may directly affect the permanency of the location, alignment, and maintenance of the proposed highway segment in the future. Under this circumstance, the land use characteristics within the review area consist of large mining operations and there are associated surface and mineral rights within the preferred Alignment E-2 corridor. We understand that there could be an associated risk for future relocation for property that cannot be purchased in perpetuity. We are requesting



- D | MnDoT to follow the Federal Highway Administration's guidance (noted in the DEIS, Page 4-12) emphasizing the protection of the public investment in transportation infrastructure.
- E | 5. The final alignment should be described in the FEIS and the final design and profile plans should be provided as appendices in the FEIS. A Straight and Curved Setback design option were being considered in the DEIS that extend from a point just north of Cuyuna Drive on the south end to approximately the point where the Mesabi Trail crosses existing Landfill Road just north of the Trunk Highway 135. One option should be chosen for the FEIS. Also, Alternative E-2 includes a bridge crossing the existing Rouchleau Pit. According to the DEIS, the area of evaluation across the pit may have potential for design adjustments in the alignment to accommodate currently undefined solutions to known engineering challenges (e.g., existing areas of unstable fill and bridge type noted in the DEIS, ES-10). The design adjustments should be complete for the FEIS.
- F | 6. The overall proposed impacts to special aquatic resources may need to be adjusted for the final alignment. The proposed impacts to special aquatic resources should also include temporary impacts and indirect impacts associated with the project. If there would be temporary or indirect impacts to special aquatic resources, we would also request information about a mitigation strategy.

Concurrence Point 3: Identification of the Selected Alternative

G | We have evaluated the five alignment alternatives in the DEIS to determine whether the selected alternative is the least environmentally damaging practicable alternative (LEDPA) in accordance with the Section 404(b)(1) Guidelines (40 CR § 230.10). The alternatives included: No Build Alternative, Existing U.S. 53 Alternative, Alternative M-1, Alternative E-1A, and Alternative E-2. Based on our review of the alternatives, we have determined that your selected alternative (Alternative E-2) is the LEDPA. The preferred Alternative E-2 should be carried forward as the selected preferred alternative in the FEIS. However, if substantial new information regarding the selected alternative is brought forward later in the project development process that affects our determination about the LEDPA, the Corps may need to revisit its decision regarding the selected alternative.

Our determination that Alternative E-2 is the LEDPA concludes Concurrence Point 3 (Identification of the Selected Alternative) of the NEPA/404 merger process. The next concurrence point is design phase impact minimization. This should include documentation of the measures taken during project design to further avoid and minimize impacts to aquatic resources. The Corps would also evaluate the appropriateness of any compensatory mitigation proposed to offset adverse impacts to waters of the United States, including wetlands.

Any subsequent Corps' permit evaluation would include a determination whether it is contrary to the public interest (33 CFR § 320.4). We would complete an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. The evaluation of the probable impact that the proposed activity may have on the public interest requires careful weighing of all those factors that become relevant in each particular case. The benefits that may reasonably be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. We may request further information or clarification during the review to complete the public interest review.

Operations Division  
Regulatory Branch (2011-00769-DWW)

If you have any questions, please contact Daryl W. Wierzbinski in our Duluth office at (218) 720-5291 Ext 35401 or [daryl.w.wierzbinski@usace.army.mil](mailto:daryl.w.wierzbinski@usace.army.mil). In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chad Konickson', written in a cursive style.

Chad Konickson  
Chief, Regulatory Branch

Copy furnished:

Virginia Laszewski, EPA, District 5 Chicago, IL  
Phil Forst, FHWA, St. Paul, MN  
Andrew Horton, USFWS, Bloomington, MN  
Sarma Straumanis, MnDoT, St. Paul, MN  
Jim Brist, MPCA, St. Paul, MN  
Allyz Kramer, SEH, Duluth, MN





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

MAY 07 2015

REPLY TO THE ATTENTION OF:

David Dominguez  
Area Engineer  
Federal Highway Administration  
380 Jackson Street, Suite 500  
Saint Paul, Minnesota 55101

Nancy Frick  
MnDOT Office of Environmental Stewardship  
Transportation Building  
395 John Ireland Boulevard  
Saint Paul, Minnesota 55155-1899

RE: US 53 Virginia to Eveleth – NEPA/Section 404 Merger Process Concurrence Point #3

Dear Mr. Dominguez and Ms. Frick:

EPA has received the Minnesota Department of Transportation (MnDOT) April 20, 2015 letter, which requests EPA's written concurrence on Concurrence Point #3 (CP#3) – Preferred Alternative for the US 53 project. This project is following the U.S. Army Corps of Engineers (USACE) / MnDOT's informal NEPA/Clean Water Act Section 404 Merger Process

EPA concurs with MnDOT's Preferred Alternative: Alternative E-2 with the Interchange Option at US 53/Mn 135 and the Straight Option between Cuyuna Drive and MN 135. As is typical of the NEPA/404 merger process, if substantial new information regarding the preferred alternative is brought forward, EPA reserves its right to further review and comment.

We look forward to participating in the May 11, 2015, MnDOT, FHWA and USACE conference call regarding this project. If you have any questions, please contact me or Virginia Laszewski of my staff at (312) 886-7501 or [laszewski.virginia@epa.gov](mailto:laszewski.virginia@epa.gov).

Sincerely,

Kenneth A. Westlake, Chief  
NEPA Implementation Section  
Office of Enforcement and Compliance Assurance

cc: Daryl Wierzbinski, U.S. Army Corps of Engineers (Duluth Office),  
([daryl.w.wierzbinski@usace.army.mil](mailto:daryl.w.wierzbinski@usace.army.mil))

Andrew Horton, U.S. Fish and Wildlife Service (Twin Cities Field Office),  
([andrew\\_horton@fws.gov](mailto:andrew_horton@fws.gov))

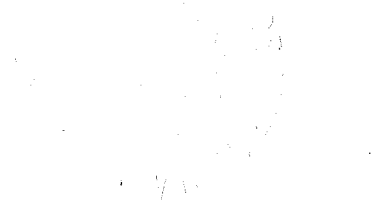
Rian Reed, Minnesota Department of Natural Resources (Northeast Regional  
Environmental Assessment Ecologist), ([rian.reed@state.mn.us](mailto:rian.reed@state.mn.us))

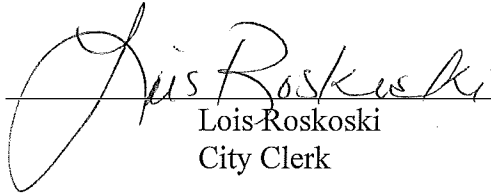
Jim Brist, Minnesota Pollution Control Agency, ([jim.brist@state.mn.us](mailto:jim.brist@state.mn.us))

Jennie Ross, MnDOT ([jennie.ross@state.mn.us](mailto:jennie.ross@state.mn.us))

I, Lois Roskoski, City Clerk of the City of Virginia, County of St. Louis, State of Minnesota, do hereby certify that I have compared the annexed copy of Resolution No. 15087 passed by the City Council of the City of Virginia, on the 28<sup>th</sup> day of April, 2015, with the original document and record thereof on file and of record in my office, and, in my custody as City Clerk of said City, and that the same is true and correct copy thereof, and the whole thereof, and a true and correct transcript therefrom.

In Witness Whereof, I have hereunto set my hand and affixed this corporate seal of said City of Virginia, this 30th day of April, 2015.



  
Lois Roskoski  
City Clerk



## **COUNCIL CHAMBERS**

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Resolution No. **15087**

City of Virginia, Minnesota, **April 28, 2015**

**Resolution approving the final design layout for the Trunk Highway 53 Relocation Project, State Project 6918-80, with recommended changes**

Resolved by the City Council of the City of Virginia, that

**WHEREAS, the Commissioner of Transportation has prepared a final layout for the Trunk Highway 53 Relocation Project, State Project 6918-80, within the City of Virginia and seeks the approval thereof, as described in Minnesota Statutes 161.162 to 161.167; and**

**WHEREAS, said final layout is on file in the District 1 Minnesota Department of Transportation office, located in Virginia, Minnesota, being marked as Layout No. 2A, S.P. 6918-80, from R.P. 62+0.32 to 64+0.244; and**

**WHEREAS, the Virginia City Council approves the final layout for the Trunk Highway 53 Relocation Project, with the following recommended changes:**

- **Eliminate the new south full access at Midway Drive between Merritt Drive and More Drive.**
- **Install a southbound left turn lane off Highway 53 onto Vermillion Drive, as shown on Exhibit A.**
- **Eliminate the right in/right out design at Cuyuna Drive and continue to maintain the access as currently constructed, in order to allow traffic to travel both north and south from this location.**

**NOW, THEREFORE, BE IT RESOLVED that said Virginia City Council approves the final design layout for the improvement of said Trunk Highway within the corporate limits of Virginia, as prepared by the Commissioner of Transportation, and requests consideration of the recommended changes to the design.**

**BE IT FURTHER RESOLVED to rescind Resolution No. 15083, adopted on April 14, 2015.**

Moved by Councillor **Jorgensen** supported by Councillor **Sipola** that the above resolution be adopted.

Ayes: **Councillors Baribeau, Littlewolf, McReynolds, Jorgensen, Sipola, Baranzelli, Mayor Cuffe - 7**

Nays: **None**



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**David J. McMillan**  
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July 2, 2015

Pat Huston, Project Manager  
MnDOT District 1  
1123 Mesaba Avenue  
Duluth, MN 55811

Re: STATE PROJECT SP 6918-80  
Highway 53 Virginia to Eveleth — Final Environmental Impact Statement

Dear Mr. Huston:

Thank you for the opportunity to comment on the Final Environmental Impact Statement (Final EIS) for the Highway 53 Relocation Project. Minnesota Power has reviewed the Final EIS and commends the Federal Highway Administration (FHWA) and the Minnesota Department of Transportation (MnDOT), as joint lead agencies, and the numerous cooperating and participating agencies for their thorough environmental review and analysis of the many facets of this project.

The planning, public communication and input associated with the review of this project will significantly and appropriately advance the environmental assessment process to the benefit of all Minnesotans.

As outlined in the Final EIS, the Relocation Project is required to address the termination of easements rights for the segment of Highway 53 that crosses lands and associated minerals that are owned by RGGGS and leased by United Taconite. The involved agencies have thoroughly reviewed multiple alternatives, and associated environment impacts, before selecting a preferred alternative. The Final EIS, as proposed, appropriately addresses environmental concerns related to the preferred alternative route for the project.

Minnesota Power recognizes the mining industry's positive socioeconomic impact on the economy of Northern Minnesota and this project's impact will enrich the region's economy for years to come. Access to the iron ore under the existing Highway 53 will allow United Taconite to remain viable for many years in the future. Continued mining operations at United Taconite will greatly enhance the economy as these jobs provide stability, not only for miners and their families, but for those in supporting industries as well.

Minnesota Power wholeheartedly supports this project. We look forward to the completion of the permitting process and the subsequent commencement of the actual project.

In closing, I'd like to thank you again for the opportunity to comment in this crucial permitting process, and we look forward to the opportunity to give our input on the permitting of similar projects in the future.

Sincerely,

David J. McMillan  
Executive Vice President, Minnesota Power



MINNESOTA DEPARTMENT OF NATURAL RESOURCES  
NORTHEAST REGION  
1201 E HWY 2  
GRAND RAPIDS, MN 56744  
218-327-4455

07/06/2015

Pat Huston, Project Manager  
MNDOT District 1  
1123 Mesaba Avenue  
Duluth, MN 55811

Dear Mr. Huston,

The Minnesota Department of Natural Resources (DNR) Northeast Region has reviewed the Final Environmental Impact Statement (FEIS) for the U.S. Highway 53 Virginia to Eveleth Project. The DNR appreciates the opportunity to comment on the FEIS and the coordination opportunities that have been provided during project development. We also appreciate the consideration given to our previous comments and concerns including our Draft EIS Letter from February 5, 2015.

The DNR looks forward to continued coordination as the project proceeds. Please feel free to call or email me with any questions you have.

Sincerely,

*Rian Reed*

Regional Environmental Assessment Ecologist  
MNDNR  
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